

Sixth Appellate District

San Jose, California

MONDAY, MARCH 2, 2009

H033144 PEOPLE v. VILLASENOR

The judgment is affirmed. (not published)
(Elia, J.; We concur: Rushing, P.J., Premo, J.)
Filed March 2, 2009

H033174 In re M.A., et al.; SANTA CRUZ HUMAN RESOURCES AGENCY v.
MARIA G.

As to all five dependent children, the July 2008 visitation
orders are affirmed. (not published)
(McAdams, J.; We concur: Bamattre-Manoukian, Acting P.J., Mihara,
J.)
Filed March 2, 2009

TUESDAY, MARCH 3, 2009

The following cases are submitted this date:

H033036 In re E.O.; D.F.C.S. v. J.P., et al.

H033224 In re E.O.; D.F.C.S. v. J.P., et al.

H032962 PEOPLE v. GOMEZ

H030494 K.C. MULTIMEDIA, INC. v. BANK OF AMERICA TECHNOLOGY &
OPERATIONS, INC., et al.

The judgment is affirmed. (partial publication)
(McAdams, J.; We concur: Mihara, Acting P.J., Duffy, J.)
Filed March 3, 2009

H031026 K.C. MULTIMEDIA, INC. v. BANK OF AMERICA TECHNOLOGY &
OPERATIONS, INC., et al.

We affirm the order entered October 19, 2006, which awards
respondents attorney fees in the amount of \$1,114,930. (not
published)
(McAdams, J.; We concur: Mihara, Acting P.J., Duffy, J.)
Filed March 3, 2009

The Court met in its courtroom at 333 West Santa Clara
Street, Suite 1060, San Jose, California. Present: Elia, Acting
P.J.; Bamattre-Manoukian, J.; Duffy, J.; and Jossie Michel,
Deputy Clerk.

H032267 KHOSH v. LE, ET AL.

Sixth Appellate District

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Cause called and argued by David M. McKim appearing for Appellant and by Malcolm Leader-Picone appearing for Respondents. Cause ordered submitted.

Elia, Acting P.J. leaves the bench and McAdams, J. takes the bench.

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Tuesday, March 3, 2009 (continued)

H032072 PEOPLE v. NERI

Cause called and argued by Irma Castillo appearing for Appellant and by John R. Vance, Deputy Attorney General, appearing for Respondent. Cause ordered submitted.

H032264 PEOPLE v. PENCE

Cause called and argued by Demarris R. Evans appearing for Appellant and by Catherine Rivlin, Deputy Attorney General, appearing for Respondent. Cause ordered submitted.

Duffy, J. leaves the bench and Mihara, J. takes the bench.

H031886 FOX v. VALVERDE, ET AL.

Cause called and argued by Robert A. Harkness, Deputy Attorney General, appearing for Appellants and by Jean Pierre Lavallee appearing for Respondent. Cause ordered submitted.

Court recesses until 1:30 p.m.

The Court reconvened at 1:30 p.m. in its courtroom at 333 West Santa Clara Street, Suite 1060, San Jose, California. Present: Rushing, P.J.; McAdams, J.; Duffy, J.; and W. Magsaysay, Deputy Clerk.

H031862 PEOPLE v. SWAN

Cause called and argued by Edward M. Robinson appearing for Appellant and by Christopher J. Wei, Deputy Attorney General, appearing for Respondent. Cause ordered submitted.

Whereupon, Rushing P.J. and McAdams, J. leave the bench. Premo, Acting P.J. and Elia, J. now join Duffy, J. in the panel.

H033220 IN RE UT CHI VO ON HABEAS CORPUS

Cause called and argued by Keith A. Wattley appearing for Petitioner and by Denise A. Yates, Deputy Attorney General, appearing for Respondent. Cause ordered submitted.

Whereupon, Premo, Acting P.J. and Elia, J. leave the bench. Bamattre-Manoukian, Acting P.J. and McAdams, J., now join Duffy, J. in the panel.

H031506 PEOPLE v. MALDONADO

Sixth Appellate District

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Cause called and argued by Peter F. Goldscheider appearing for Appellant and by Ann Wathen, Deputy Attorney General, appearing for Respondent. Cause ordered submitted.

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Tuesday, March 3, 2009 (continued)

H032666 SHIEJAK v. COMMUNITY HOSPITAL OF THE MONTEREY PENINSULA

Cause called and argued by Jeremy D. Pasternak appearing for Appellant and by Dennis G. McCarthy appearing for Respondent. Cause ordered submitted.

H032622 PEOPLE v. ABUNDIZ

Cause called and argued by Dallas Sacher appearing for Appellant and by Catherine A. Rivlin, Deputy Attorney General, appearing for Respondent. Cause ordered submitted.

Court adjourns.

H031728 PEOPLE v. RUIZ

The judgment is affirmed. (not published)
(Rushing, P.J.; We concur: Premo, J., Elia, J.)
Filed March 3, 2009

H033155 In re G.M.; D.F.C.S. v. M.M.

By the Court*:

Appellant's petition for rehearing is denied.
Filed: March 3, 2009
*Before Rushing, P.J., Premo, J. and Elia, J.

WEDNESDAY, MARCH 4, 2009

H031468 SPINKS v. EQUITY RESIDENTIAL BRIARWOOD APARTMENTS, et al.

We reverse the February 2007 summary judgment for defendants, as well as the May 2007 judgment awarding defendants attorney fees and costs. Plaintiff shall have costs on appeal. (published)
(McAdams, J.; We concur: Bamattre-Manoukian, Acting P.J., Duffy, J.)
Filed March 4, 2009

H033349 In re L.B.; SANTA CRUZ COUNTY HRA v. R.B.

The order appealed from is affirmed. (not published)
(Elia, J.; We concur: Rushing, P.J., Premo, J.)
Filed March 4, 2009

H033084 In re B.M.; D.F.C.S. v. B.M., et al.

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The order of June 12, 2008, terminating the parents' parental rights is affirmed. (not published)
(Bamattre-Manoukian, Acting P.J.; We concur: Mihara, J., McAdams, J.)
Filed March 4, 2009

Sixth Appellate District

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Wednesday, March 4, 2009 (continued)

The following case is submitted this date:

H031705 DOYLE, as City Attorney, etc. v. PACIFIC GAS AND ELECTRIC
COMPANY

THURSDAY, MARCH 5, 2009

The following cases are submitted this date:

H033277 FULLENWIDER v. LIFLAND
H033021 PEOPLE v. PATTERSON
H032415 TONUMAIPEA v. PEA
H032740 PEOPLE v. BROWN
H032110 PEOPLE v. CABRAL
H032516 PEOPLE v. BOULERICE
H032766 CHO v. COUNTY OF SANTA CLARA
H032837 PEOPLE v. LUU
H032628 PEOPLE v. SCHNEIDER
H033388 PEOPLE v. O.D.
H032653 PEOPLE v. PITTS
H033006 MEDINA v. MEDINA; DEPT. OF CHILD SUPPORT SVCS.
H032881 PEOPLE v. GUERRA
H032302 PEOPLE v. OWENS
H033377 PEOPLE v. ROMUA

H031458, H031792 FALCONE v. FYKE

The orders are affirmed. (not published)
(Premo, J.; We concur: Rushing, P.J., Duffy, J.)
Filed March 5, 2009

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Thursday, March 5, 2009 (continued)

H032962 PEOPLE v. GOMEZ

The trial court is ordered to modify the gang association condition in the judgment as follows: replace "You shall not associate with individuals identified as members of a criminal street gang, as identified by the probation officer" with "You shall not associate with individuals who you know are members of a criminal street gang or individuals who your probation officer has told you are members of a criminal street gang." The court is also ordered to strike the attorney fees order. As so modified, the judgment is affirmed.

This is another in a long series of appeals in which we have been called upon to modify association conditions of probation (not just gang association conditions) to include knowledge requirements. We note that the problematic language in the gang association condition at issue in this case originated with the probation department. We urge the superior courts and the probation departments to act expeditiously to modify their standard, preprinted probation condition forms to comport with the modifications we order here, since a failure to do so may result in additional appeals such as this one. In the interest of judicial economy, we also ask probation officers, judges, prosecutors, and defense counsel to be on the alert for probation conditions that may have knowledge requirements and insure that language is included in the conditions, since the most expeditious way to correct these issues is in the trial court at the time of sentencing. (not published)

(McAdams, J.; We concur: Mihara, Acting P.J., Duffy, J.)

Filed March 5, 2009

FRIDAY, MARCH 6, 2009

H032314 PEOPLE v. MENDOZA

The order modifying the length of respondent's jail term is reversed. (published)

(Elia, J.; We concur: Rushing, P.J., Premo, J.)

Filed March 6, 2009

H032525 SCHLAFLY v. SCHLAFLY

The order is affirmed. Julie is awarded her costs on appeal. (not published)

(Mihara, J.; We concur: Bamattre-Manoukian, Acting P.J., Duffy, J.)

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